

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated March 31, 2009 has been received and its contents carefully reviewed.

Claims 1, 3, 7, 9, 10, 17, and 18 are hereby amended. Claims 2, 6, 8, 14-16, 19, and 20 are hereby canceled. Accordingly, claims 1, 3-5, 7, 9-13, 17, and 18 are currently pending for prosecution on the merits. Reexamination and reconsideration are respectfully requested.

The Office has rejected claim 10 under 35 U.S.C. § 112, 2nd ¶ as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Office Action at p. 2. The Office asserts that the phrase “the disposer” in claim 10 lacks antecedent basis. Claim 10 now depends from claim 4, which contains proper antecedent basis for this limitation. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, 2nd ¶ of claim 10.

The Office has rejected claims 1-3, 6-9, 14, 15, and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,900,070 to Jarvis et al. (hereinafter *Jarvis*). Office Action at p. 3. Claims 2, 6, 8, 14, 15, and 20 have been canceled, thus the rejection of these claims is now moot.

Applicant respectfully traverses the rejection and asserts that *Jarvis* fails to disclose a dishwasher comprising, at least, “the pump comprising an impeller mounted above the heater assembly to pump the washing water, ... wherein the heater assembly can be attached or detached to the sump housing by passing through the opening, which is positioned between a bottom of the sump housing and the impeller,” as recited in independent claims 1 and 17.

The Office asserts that *Jarvis* discloses an impeller 38 and a heater assembly 22. Office Action at p. 3. *Jarvis*’ heating element 22, however, “is disposed within the lower portion of the dishwashing space,” and exposed in the tub 12, while the impeller 38 is disposed below the heating element within sump 18. *Jarvis* at col. 2, ll. 41-43 and see FIGs. 1 & 2. Therefore *Jarvis*

wholly fails to anticipate, “the pump comprising an impeller mounted above the heater assembly to pump the washing water,” as recited independent claims 1 and 17.

The Office further asserts that *Jarvis* “also teaches that the sump housing has an opening in a side for the heater assembly to pass through (Fig. 2, see where part 22 connects to housing).” Office Action at p. 3. *Jarvis*’ purported opening, however, is located along sloped bottom wall 16 of tub 12. See *Jarvis* FIGs. 1 and 2. Further, as stated above the heating element 22 is disposed wholly above impeller 38. Therefore, *Jarvis* fails to anticipate, “wherein the heater assembly can be attached or detached to the sump housing by passing through the opening, which is positioned between a bottom of the sump housing and the impeller,” as recited in independent claims 1 and 17.

Accordingly, Applicants respectfully submit that independent claims 1 and 17 are patentably distinguishable over *Jarvis*. Claims 3, 7, 9, 18 and 19, which depend from either independent claims 1 or 17, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 102(b) rejection of claims 1, 3, 7, 9, and 17-19.

The Office has rejected claims 4, 5, 10 and 16 under 35 U.S.C. § 103(a) as being anticipated by *Jarvis* in view of U.S. Patent No. 5,377,707 to Young (hereinafter *Young*). Office Action at p. 4. Claim 16 has been canceled, thus the rejection of this claim is now moot.

Applicant respectfully traverses the rejection and asserts, as discussed above, that *Jarvis* fails to disclose a dishwasher comprising, at least, “the pump comprising an impeller mounted above the heater assembly to pump the washing water, ... wherein the heater assembly can be attached or detached to the sump housing by passing through the opening, which is positioned between a bottom of the sump housing and the impeller,” as recited in independent claim 1.

Young fails to cure the deficiencies of *Jarvis*. In fact, *Young* was set forth by the Office for purportedly teaching a disposer.

Accordingly, Applicants respectfully submit that independent claim 1 is patentably distinguishable over *Jarvis* and *Young*. Claims 4, 5, and 10, which depend from independent

claim 1, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 4, 5, and 10.

The Office has rejected claims 11-13 under 35 U.S.C. § 103(a) as being anticipated by *Jarvis* in view of *Young* and further in view of U.S. Patent No. 5,299,586 to Jordan et al. (hereinafter *Jordan*). Office Action at p. 5.

Applicant respectfully traverses the rejection and asserts, as discussed above, that *Jarvis* and *Young*, alone or in combination fail to disclose a dishwasher comprising, at least, “the pump comprising an impeller mounted above the heater assembly to pump the washing water, ... wherein the heater assembly can be attached or detached to the sump housing by passing through the opening, which is positioned between a bottom of the sump housing and the impeller,” as recited in independent claim 1.

Jordan fails to cure the deficiencies of *Jarvis* and *Young*. In fact, *Jordan* was set forth by the Office for purportedly teaching a packing inserted in the opening in the sump.

Accordingly, Applicants respectfully submit that independent claim 1 is patentably distinguishable over *Jarvis*, *Young*, and *Jordan*. Claims 11-13, which depend from independent claim 1, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 11-13.

CONCLUSION

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

Application No. 10/558,094
Amendment dated June 26, 2009
Reply to Office Action dated March 31, 2009

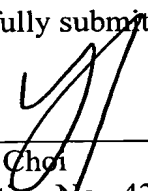
Docket No. 9988.267.00

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

Respectfully submitted,

Dated: June 26, 2009

By _____


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